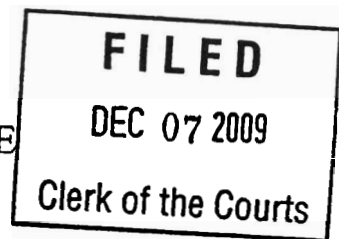


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE: AMENDMENT TO RULE 10,
RULES OF THE TENNESSEE SUPREME COURT

No. M2009-01817-SC-RL2-RL

ORDER

Tenn. Sup. Ct. R. 10, Canon 3(B)(7)(e) currently provides: "A judge may initiate or consider any *ex parte* communications when expressly authorized by law to do so." A trial court judge who presides over a Tennessee "drug court" asked the Supreme Court to clarify the application of Canon 3(B)(7)(e) in the context of drug courts and other "problem-solving courts." In that regard, the Court published for public comment a proposed new paragraph to the Commentary to Canon 3. The public comment period expired on October 26, 2009.

On October 26, 2009, the Tennessee Bar Association ("TBA"), the Tennessee Judicial Conference ("TJC") and the Tennessee Trial Judges Association ("TTJA") jointly filed a request to extend the time for submitting written comments concerning the proposed amendment. The organizations' joint request asked that the comment period "be extended to June 30, 2010, in order for the respective bodies to give full and fair consideration to the proposed revision." In summary, the joint request states that the TBA's Task Force on Judicial Conduct Rules currently is "undertaking a comprehensive examination of Tennessee Supreme Court Rule 10 and the 2007 amendments to the ABA Model Code of Judicial Conduct which may produce a proposal to make the first sweeping change in those rules in more than a decade." The Task Force plans to submit its report to the TBA Board of Governors and other interested parties in early June 2010. For that reason, the TBA, TJC and TTJA asked the Court to extend the comment period on this proposed amendment until June 30, 2010.

After due consideration, the Court respectfully denies the joint request to extend the deadline for submitting written comments. The Court hereby amends Tenn. Sup. Ct. R. 10, Canon 3 by adopting the following new paragraph to the Commentary to that Canon:

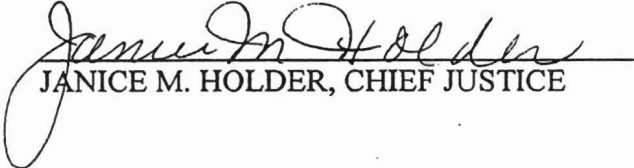
Commentary [2009]. — Tenn. Sup. Ct. R. 10, Canon 3(B)(7)(e) provides that "a judge may initiate or consider any *ex parte* communications when expressly authorized by law to do so." Because "[l]aw' denotes *court rules* as well as statutes, constitutional provisions, and decisional law[.]" Tenn. Sup. Ct. R. 10, "Terminology" (emphasis added), local rules of court may expressly authorize *ex parte* communications by judges serving on therapeutic

or problem-solving courts, such as mental health courts or drug courts. Serving on such courts, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

This amendment shall take effect upon the filing of this Order. The adoption of this amendment, however, is without prejudice to the TBA, the TJC and/or the TTJA later requesting changes to Canon 3 and its Commentary, as amended herein, as part of any comprehensive proposal to revise Tenn. Sup. Ct. R. 10.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters/West. In addition, this order shall be posted on the Tennessee Supreme Court's website.

FOR THE COURT:



JANICE M. HOLDER, CHIEF JUSTICE